



# Nevada State Board of Medical Examiners

## \* \* \* MINUTES \* \* \*

### OPEN SESSION BOARD MEETING

Held in the Conference Room at the offices of the  
Nevada State Board of Medical Examiners  
1105 Terminal Way, Suite 301, Reno, NV 89502

and videoconferenced to

the conference room of the Nevada State Board of Dental Examiners  
6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

***FRIDAY, DECEMBER 5, 2008 – 8:30 a.m.***

#### ***Board Members Present***

Charles N. Held, M.D., President  
Benjamin J. Rodriguez, M.D., Vice President  
Renee West, Secretary-Treasurer  
Sohail U. Anjum, M.D.  
Javaid Anwar, M.D.  
Jean Stoess, M.A.  
S. Daniel McBride, M.D.  
Van V. Heffner

#### ***Board Members Absent***

Cindy Lamerson, M.D.

#### ***Staff Present***

Louis Ling, J.D., Executive Director  
Laurie L. Munson, Deputy Executive Director/  
Information Systems Administrator/Chief of Administration  
Edward O. Cousineau, J.D., Deputy General Counsel  
Lyn E. Beggs, J.D., Deputy General Counsel  
Douglas C. Cooper, Chief of Investigations  
Lynnette L. Daniels, Chief of Licensing  
Carolyn H. Castleman, Deputy Chief of Licensing

Mailing Address: P.O. Box 7238 • Reno, Nevada 89510-7238  
Physical Address: 1105 Terminal Way, Suite 301 • Reno, Nevada 89502-2144  
(775) 688-2559 • Fax (775) 688-2321  
E-mail: nsbme@medboard.nv.gov • Website: www.medboard.nv.gov

*Also Present*

Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General  
Peter A. Mansky, M.D., Director, Nevada Health Professionals Assistance Foundation (in Las Vegas)  
John Lanzillotta, P.A.-C, Physician Assistant Advisory Committee Member (in Las Vegas)  
Peggy Alby, R.R.T., Practitioner of Respiratory Care Committee Member (in Las Vegas)

Agenda Item 1

**CALL TO ORDER AND ANNOUNCEMENTS**

- Roll Call/Quorum

The meeting was called to order by President Charles N. Held, M.D., at 8:30 a.m.

Ms. Guerci-Nyhus took roll call, and all Board members were present with the exception of Dr. Cindy Lamerson. Ms. Guerci-Nyhus announced that there was a quorum.

Agenda Item 2

**APPROVAL OF MINUTES**

- October 3 & 4, 2008 Board Meeting – Open/Closed Sessions

Ms. Munson stated that the Board Members had been provided with a revised page 20 of the Open Session Minutes. This page had been changed to reflect that Ms. Daniels was not present at the meeting on Saturday, October 4th.

Dr. McBride moved to approve the Minutes of the October 3 & 4, 2008 Board Meeting – Open/Closed Sessions. Ms. Stoess seconded the motion, and it passed unanimously.

Agenda Item 3

**CONSIDERATION OF ADOPTION OF AMENDMENTS TO NEVADA  
ADMINISTRATIVE CODE CHAPTER 630**

- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Amend NAC 630.500 to Add Provisions Regarding Proof of Qualification for Licensure of Practitioner of Respiratory Care Applicants
- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Amend NAC 630.505 to Add Language Regarding Board-Recognized Educational Programs for Practitioners of Respiratory Care
- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Amend NAC 630.500 to Provide a Definition of Clinical Practice of Medicine as it Relates to the Five-Year Practice Rule
  - Edward O. Cousineau, J.D., Deputy General Counsel

**Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Amend NAC 630.500 to Add Provisions Regarding Proof of Qualification for Licensure of Practitioner of Respiratory Care Applicants**

Mr. Cousineau explained that the first proposed regulation before the Board would amend NAC 630.500, which deals with qualifications of applicants for respiratory care licenses.

The changes would affect those who had not actively practiced within the preceding 12 months prior to submission of their applications for licensure. He outlined the proposed changes and stated there had been no public comment or input received by the Board. He requested the Board adopt the regulation as written.

Discussion ensued concerning the proposed changes.

Dr. Rodriguez moved that the Board authorize staff to proceed with the process of adoption of the proposed regulation. Mr. Heffner seconded the motion, and it passed unanimously.

**Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Amend NAC 630.505 to Add Language Regarding Board-Recognized Educational Programs for Practitioners of Respiratory Care**

Mr. Cousineau explained that because it now appeared the Legislative Commission would not approve this proposed amendment, staff was withdrawing it from consideration by the Board.

**Consideration of Amendment to Nevada Administrative Code Chapter 630, to Provide Definition of Clinical Practice of Medicine as it Relates to the Five-Year Practice Rule**

Mr. Cousineau stated the third proposed regulation would define the practice of medicine, as it relates to the five-year practice rule under the current endorsement statute, NRS 630.1065. The amendment was drafted in response to inquiries received by the Licensing Division concerning what "engaged in the practice of medicine" means under that statute. Rather than wait to see if the statute is modified by the Legislature, staff would like to adopt a regulation to clarify the term.

Discussion ensued concerning the proposed definition.

Dr. Rodriguez moved that the Board authorize staff to proceed with the process of adoption of the proposed regulation as written. Ms. Stoess seconded the motion, and it passed unanimously.

**Agenda Item 4**

**CONSIDERATION OF ORDER TO SHOW CAUSE IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS* vs. *SIDNEY VAN ASSCHE, M.D.*, BME CASE NO. 07-19008-1**

- Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General

**OPEN SESSION**

Ms. Guerci-Nyhus named the adjudicating members and asked whether they had reviewed the information provided relative to the matter, and all indicated they had. She then explained the matter before the Board was consideration of an order to show cause why

Dr. Van Assche's license should not be revoked. Pursuant to a previous settlement agreement, the Board had revoked Dr. Van Assche's license, but stayed the revocation contingent upon Dr. Van Assche's compliance with the terms of his five-year probation. Dr. Van Assche has failed to comply with on of those terms. Therefore, the request is that the Board lift the stay of revocation and revoke Dr. Van Assche's license to practice medicine in Nevada. Reimbursement of the Board's costs was also requested.

Dr. Rodriguez moved that the Board lift the stay, thereby revoking Dr. Van Assche's license to practice medicine, and impose reimbursement of costs. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Mr. Cooper stated the costs incurred by the Board to date in this matter were \$2,488.63.

#### Agenda Item 5

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF  
THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. HAROLD TATE, M.D.,  
BME CASE NO. 08-19247-1**

- Edward O. Cousineau, J.D., Deputy General Counsel

#### OPEN SESSION

Mr. Cousineau stated this was an out-of-state action arising out of disciplinary action taken against a stayed revocation of Dr. Tate's medical license in California. He then stated the terms of the settlement agreement would mirror those of Dr. Tate's probation in California and that Dr. Tate would be required to reimburse the Board's costs.

Dr. Rodriguez moved that the Board accept the settlement as presented. Mr. Heffner seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

#### Agenda Item 6

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER  
OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. TERESA  
CHARNIGA, M.D., BME CASE NO. 08-8567-1**

- Edward O. Cousineau, J.D., Deputy General Counsel

#### OPEN SESSION

Mr. Cousineau explained that this case was filed due to Dr. Charniga's failure to disclose a DUI arrest on two applications for renewal. He then described the terms of settlement, which included a finding that Dr. Charniga violated NRS 630.304(1), a public reprimand, a fine of \$1,000, and reimbursement of the Board's costs. Mr. Cooper stated the costs to date were \$3,015.95.

Dr. Rodriguez moved that the Board accept the settlement as presented. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 7

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER  
OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JOHN  
THALGOTT, M.D., BME CASE NO. 08-9484-1

- Edward O. Cousineau, J.D., Deputy General Counsel

- AND -

Agenda Item 8

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER  
OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. BENJAMIN  
VENGER, M.D., BME CASE NO. 08-9819-1

- Edward O. Cousineau, J.D., Deputy General Counsel

Mr. Cousineau stated that both cases had been pulled from the agenda, as settlement negotiations were continuing in both, and that these cases would most likely be addressed at the next regularly-scheduled Board meeting.

Agenda Item 9

DISCUSSION OF PROPOSED LEGISLATIVE, REGULATORY AND INTERNAL  
CHANGES CONCERNING LICENSING PROCEDURES AND DISCIPLINARY  
PROCEEDINGS

- Louis Ling, J.D., Executive Director

Mr. Ling stated that the proposed changes to the Board's licensing procedures and disciplinary proceedings will enable the Board and staff to do their jobs more efficiently and meaningfully. He explained that most of the disciplinary laws date back to before 1977 and the last time the Medical Practice Act was comprehensively updated was in 1985. A lot of things have changed since then and it is time to update the way the Board does things. There will be more Board Member involvement in disciplinary proceedings, less involvement in licensing procedures and some meetings will be held via e-meetings. He asked the Board for their guidance and comments with respect to the proposed changes in order for staff to structure the Board's Legislative package. Mr. Ling then outlined the proposed new licensing procedures.

Discussion ensued concerning the proposed changes to the licensing procedures.

Ms. Stoess moved to approve the proposed legislative, regulatory and internal changes to the licensing procedures. Dr. Rodriguez seconded the motion, and it passed unanimously.

Mr. Ling outlined the proposed changes to the disciplinary proceedings process.

Discussion ensued concerning the proposed changes to the disciplinary proceedings, including alternative ways to hold Investigative Committee and other meetings and the frequency of same, and the Board Members' involvement in the process.

Mr. Ling stated the statutes do not need to be changed in order for the Board to change when the Investigative Committees meet; however, they will have to be changed if the Board is

agreeable to the idea of having one or more Board Members sit with the Hearings Officer at hearings. If the Board is agreeable to the concept, then he also needs to know whether the Board would prefer to have a panel of three Board Members, comprised of two doctors and one public member, sit with the Hearings Officer, or to have one Board Member and the other two positions being filled with one doctor and one public member from a panel.

Discussion ensued concerning the best method to create the panel and concerning the time it takes to process a disciplinary case.

Dr. Held moved to authorize staff to begin preparation of the bill draft to change the Board's disciplinary proceedings pursuant to the direction provided by the Board at this meeting. Dr. McBride seconded the motion, and it passed unanimously.

#### Agenda Item 10

#### **CONSIDERATION OF AND DISCUSSION CONCERNING ADOPTION OF REVISED BUDGET FOR SECOND HALF OF FISCAL YEAR 2008-2009**

- Renee West, Secretary-Treasurer; Louis Ling, J.D., Executive Director

Mr. Ling stated that he, Ms. West and Deborah Swartz, the Board's Finance and Accounting Manager, had met with Dave Silva of Solari and Sturmer to discuss the Board's budget. The products of that were the report from Solari and Sturmer, which is a thorough examination of the Board's finances, and a revised budget for the second half of fiscal year 2008-2009. What they are asking the Board to do at this meeting is to approve a new budget to take the Board through the end of June 2009, and to make some adjustments based on the examination that was done by Solari and Sturmer. The examination has shown that some of the projections, particularly those concerning the Board's income, were overly optimistic. The projections were off by \$300,000. He has undertaken an extensive line-by-line review of the budget and held meetings with staff to find ways to cut expenses, and many small items and several larger items have been identified. He outlined some of these items. He then outlined the proposed new budget.

Ms. West acknowledged Dr. Anwar's leadership in commissioning the report from Solari and Sturmer and encouraged all Board members to read it. She also acknowledged the staff for their work in coming up with a realistic budget and the sacrifices they are making in order to make the budget work. She then highlighted some important aspects of the report. For the last five years, the Board's expenses have significantly outpaced its revenue. It will take essentially three years of discipline to build back a fund balance of about a half a million dollars, if everything goes well and the Board exercises extreme discipline on the expense side and the forecasted revenues meet what is projected. It is difficult to determine what the impact upon the Board's revenue will be as a result of what we are seeing in our economy.

Discussion ensued concerning the proposed revised budget and concerning licensure fees.

Ms. Stoess moved to approve the revised budget for the remainder of fiscal year 2008-2009. Mr. Heffner seconded the motion, and it passed unanimously.

Agenda Item 11

APPROVAL OF CERTIFICATE OF AUTHORITY FOR LOUIS LING, AS EXECUTIVE DIRECTOR, TO ACT FOR THE BOARD REGARDING ITS INVESTMENTS WITH WELLS FARGO

- Louis Ling, J.D., Executive Director

Mr. Ling explained that Wells Fargo requires that the Board pass a motion approving a certificate of authority for him to act on the Board's behalf and handle the Board's investments.

Dr. Rodriguez moved that the Board approve the certificate of authority. Mr. Heffner seconded the motion.

Discussion ensued concerning the manner in which these financial decisions would be made.

A vote was taken on the motion, and it passed unanimously.

Agenda Item 12

CONSIDERATION OF REQUEST OF MEDICAL EDUCATION ADVOCATES FOR APPROVAL FOR STEVEN SAGIAN, M.D. AND JEFFREY KINKEL, M.D. TO PERFORM LIVE, NON-SURGICAL AESTHETIC TREATMENTS AT "EXPANDING HORIZONS: NEW PARADIGMS IN AESTHETIC SURGERY OF THE FACE AND BREAST" SEMINAR, JANUARY 23-25, 2009, AT THE WYNN HOTEL, LAS VEGAS, NEVADA

- Michael Edwards, M.D.; Lynnette L. Daniels, Chief of Licensing

Ms. Daniels stated that Dr. Sagian and Dr. Kinkel both have licenses in good standing and it is a normal cosmetic demonstration request. Dr. Edwards will take full liability and responsibility for any outcomes.

Dr. Rodriguez requested that the Board promulgate a regulation that sponsoring physicians retain the records related to treatment of the patients. Discussion ensued concerning retention of records by the sponsoring physician in this particular instance.

Dr. Rodriguez moved that the Board approve the request, contingent upon Dr. Edwards retaining the records pertaining to treatment of the patients.

Further discussion ensued concerning whether it is already a requirement of licensure to retain the patient records.

Dr. McBride seconded the motion, and it passed unanimously.

### Agenda Item 13

#### REPORTS

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Peggy Alby, R.R.T., Advisory Committee Member
- Investigative Committees - Charles N. Held, M.D., President, Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Board Member, Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations
  - Status of Investigative Caseload
- Nevada State Medical Association Liaison Report - Lawrence P. Matheis, Executive Director, Nevada State Medical Association
- Clark County Medical Society Liaison Report - Benjamin J. Rodriguez, M.D., Vice President;
- Washoe County Medical Society Liaison Report - Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Renee West, Secretary-Treasurer
  - Status of Finances

#### Diversion Program: Quarterly Report

Peter A. Mansky, M.D., Director of the Nevada Health Professionals Assistance Foundation, stated the Foundation's current report contains a brief summary of the contributions the Foundation's program has made to the Board and the safety of patients in Nevada. The statistics speak for themselves. They have developed a network with medical staff offices through which they can report to the Foundation any unusual behavior by any program participants and for referrals. They provide a structured diversion program as well as prevention, education and other activities. Their work is based on the guidelines of the Federation of State Physicians Health Programs and the Federation of State Medical Boards. Dr. Mansky then outlined some of the various activities and programs the Foundation offers. Prior to expiration of the current contract between the Foundation and the Board, they would like an opportunity to educate the Board as to the extent and success of their activities.

#### Physician Assistant Advisory Committee

John B. Lanzillotta, P.A.-C told the Board that according to the American Academy of Physician Assistants, 32 states no longer require that physician assistants take NCCPA recertification exams, and the Advisory Committee is requesting the Board amend its regulations so that physician assistants are no longer required to take this exam, and instead are required to take additional CME credits to maintain licensure. Additionally, in its present form, they do not feel the recertification exam adequately tests a physician assistant's core knowledge.



Discussion ensued concerning whether the change should be made. Mr. Ling stated that Nevada statutes currently hold physician assistants to a higher standard than physicians by way of the current recertification requirement.

Dr. Held stated that this item would have to be placed on the next agenda for a decision as it was not on the agenda for a decision at this meeting.

#### **Practitioner of Respiratory Care Advisory Committee**

Peggy Alby, R.R.T. stated the Advisory Committee had nothing to report.

**Investigative Committees – Charles N. Held, M.D., President, Chairperson,  
Investigative Committee A  
Sohail U. Anjum, M.D., Board Member, Chairperson,  
Investigative Committee B**

#### **- Consideration of Cases Recommended for Closure by the Committees**

Dr. Held reported that Investigative Committee A had considered 103 cases, authorized the filing of a formal complaint in 9 cases, requested an appearance in 5 cases, issued 15 letters of concern, sent 2 cases out for peer review, referred 8 cases back to investigative staff for further investigation or follow-up, and recommended closure of 64 cases.

Dr. Anwar moved to approve for closure the cases recommended by Investigative Committee A. Dr. Rodriguez seconded the motion, and it passed unanimously.

Dr. Anjum reported that Investigative Committee B had considered 71 cases, authorized the filing of a formal complaint in 3 cases, requested an appearance in 3 cases, issued 9 letters of concern, sent 1 case out for peer review, referred 1 case back to investigative staff for further investigation or follow up and recommended closure of 54 cases.

Mr. Heffner moved to approve for closure the cases recommended by the Investigative Committees. Dr. Rodriguez seconded the motion, and it passed unanimously.

#### **Investigations Division**

##### **- Status of Investigative Caseload**

Mr. Cooper reported that during the last sixty days there were 174 cases considered by the Investigative Committees and 142 were closed. At the time of the meeting there were 473 open and active investigations, which was 74 cases per investigator.

#### **Nevada State Medical Association Liaison Report**

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association, reported that Medicaid cuts are creating havoc, primarily in southern Nevada, particularly in the

areas of OB and pediatric payments. Generally, six months or a year down the road, the Medical Board will see the problems that develop during those periods of stress. The Medical Association is working hard to minimize the adverse impacts of the budget cuts. The upcoming special legislative session will probably add to those problems. He again reported on the national advocacy group for patients who have become infected with Hepatitis in health care settings and the injection safety campaign they have been working on. Nevada will be the testing ground for educational materials they are developing, and thereafter it will become a national campaign.

Mr. Cooper asked Mr. Matheis if he knew whether anyone had approached the pharmaceutical companies to request that they stop manufacturing 500 cc bottles of single-dose drugs. Mr. Matheis stated that how to deal with the issues of dosage and vials is one of the issues on the table in the course of the advocacy group's discussions.

#### **Clark County Medical Society Liaison Report**

Warren Evins, M.D., Temporary Executive Director of the Clark County Medical Society, stated he had just started with the Clark County Medical Society the day before so he did not have a report to present at that time.

Dr. Rodriguez reported that the Volunteers in Medicine program in Las Vegas was progressing slowly but gradually gaining momentum and will be a good thing when it becomes fully operational.

#### **Washoe County Medical Society Liaison Report**

Neither Dr. Lamerson nor Jeanie L. Catterson from the Washoe County Medical Society was present to provide a report.

#### **Agenda Item 14**

##### **EXECUTIVE STAFF REPORTS**

- Consideration and Approval of Revised *Organizational Chart, Personnel Policies and Officer, Committee and Job Descriptions Manual*
- Consideration of Proposed 2009 Board Meeting Schedule
- Consideration of Request for Staff Attendance at Educational Meetings
- Informational Items
- Louis Ling, J.D., Executive Director

#### **Consideration and Approval of Revised *Organizational Chart, Personnel Policies and Officer, Committee and Job Descriptions Manual***

Mr. Ling proposed that the Board change its fiscal year from July through June to a calendar year, so that the budget will close at the end of December, rather than at the end of June. The reason is that statutorily, the Board must collect its renewal fees by July 1, and because of that, staff is forced to prepare proposed budgets in March, in order to provide them to the Board in May for approval, without having an idea as to what the actual revenues will be. This change will allow the budget to contain real numbers when provided to the Board for

review because the income will be known. If the Board approves the revised policies and procedures manual, he is asking that the Board to keep in mind the change in fiscal year as part of that. He explained the revised policies and procedures manual before them was intended to entirely supplant the current manual. He stated the job descriptions have not been changed and have previously been approved by the Board, and the real changes are to internal policies to bring them more into line with the State's personnel system and with what most other State agencies do. He then highlighted some of the changes to the manual.

Discussion ensued concerning whether employees of the Board are employees of the state of Nevada, concerning frequent flyer miles and concerning time off to vote.

Mr. Ling then highlighted changes that specifically apply to Board Members.

Discussion ensued concerning the thresholds that would apply to decisions concerning Board expenditures. The consensus was that the Executive Director will be authorized to approve expenditures up to \$10,000, any expenditures between \$10,000 and \$25,000 will require approval of the Secretary-Treasurer, any expenditures between \$25,000 and \$200,000 will require approval of the Executive Committee and any expenditures above that will require approval of the entire Board.

Mr. Ling added there had been one change to the Organizational Chart after it had been provided to Board Members for consideration in that one of the Investigations Division Administrative Assistants had been transferred to the Administration Division.

Discussion ensued concerning the ability of division chiefs to speak with to the media as it related to the proposed policies and procedures manual.

Discussion ensued concerning the frequency and number of meetings of the Board, alternative ways to hold meetings, and Board Member attendance at out-of-state conferences.

Ms. Guerri-Nyhus stated the proposed change to the Board's fiscal year should be placed on the agenda for the Board's February meeting.

Ms. Stoess moved to approve the revised manual. Mr. Heffner seconded the motion, and it passed unanimously.

### **Consideration of Proposed 2009 Board Meeting Schedule**

Discussion ensued concerning the proposed 2009 Board Meeting Schedule.

Mr. Ling advised the Board that staff will set the schedule as proposed.

### **Consideration of Request for Staff Attendance at Educational Meetings**

Discussion ensued concerning the Federation of State Medical Boards Annual Meeting. Mr. Ling stated that although the Board has approved the revised policy manual, which only allows for attendance by two Board Members, the Board could extend that by making a motion, which they can do at the next meeting.

Dr. McBride said he recommended that as many Board Members attend the meeting as possible, as it is a very valuable experience.

Mr. Cooper stated that all Investigators attend CLEAR, and then attend the specialized training by CLEAR, as it is one of the requirements for the Board's Investigators. There is one more Investigator who needs to attend, and the course is being offered in Sacramento, which will be inexpensive for the Board.

Dr. Held moved to approve the request for training. Ms. West seconded the motion, and it passed unanimously.

#### Agenda Item 15

**LEGAL REPORTS** - Edward O. Cousineau, J.D., Deputy General Counsel; Lyn E. Beggs, J.D., Deputy General Counsel; Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General

- Board Litigation Status

- Board Litigation Status

Ms. Beggs reported there were 2 settlements and one request for an order to show cause before the Board at the meeting, there were 27 letters of concern sent out following the October Investigative Committee Meetings, and 32 new letters to be sent out. There were 39 cases scheduled for hearing through August 2009, 19 cases pending filing of formal complaints, 9 of which were just approved during the latest Investigative Committee meetings. With respect to court appellate cases, the Wick matter was still pending a briefing schedule in the Nevada Supreme Court and the Lakner case was still pending setting of oral argument in District Court on judicial review.

Ms. Guerci-Nyhus reported the Attorney General's Office still had the two cases in the Eighth Judicial District Court - the temporary restraining orders and complaints for preliminary injunction and injunctive relief against Drs. Depak Desai and Eladio Carrera. Drs. Desai and Carrera both stipulated to leave their restraining orders in place pending the outcome of their disciplinary hearings. On November 14, the Attorney General's Office filed for restraining orders against Dr. Chou, Dr. Cutarelli, Dr. Anamika Jain, Vikas Jain, who is an unlicensed physician, and the entity Valley Eye Center for unlicensed practice of medicine. There will be a hearing for a preliminary injunction and on the restraining orders in those cases on December 16th. Lastly, Dr. McBride had requested representation by the Attorney General's Office concerning a lawsuit filed by Dr. Hirschfeld.

#### Agenda Item 16

##### **LICENSURE RATIFICATION**

- Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status Approved Since the October 3 & 4, 2008 Board Meeting

Dr. Rodriguez moved that the Board ratify the licenses issued and reinstatements of licensure and changes of licensure status approved since the October 3 & 4, 2008 Board meeting. Dr. Anwar seconded the motion, and it passed unanimously.

Agenda Item 17

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS  
FOR LICENSURE

17(a) Gene Zdenek, M.D.

Gene Zdenek, M.D. appeared before the Board on his application for licensure by endorsement.

Ms. Daniels stated that Dr. Zdenek did not want his application to be considered in closed session, with the public being excluded, and explained that he was appearing before the Board because he had applied under the old endorsement statute.

Dr. Held questioned Dr. Zdenek concerning the fact that he did not pass Step II of the N.B.M.E. and Flex Exams, the action by the California Board regarding a discrepancy in his CMEs, and why he responded in the negative to Question 31 on his application for licensure when he should have responded in the positive.

Dr. Zdenek explained that he does not test well, and described the discrepancies in his CMEs. He stated he responded negatively to Question 31 on the application because the California Board never notified him that he was under investigation.

Dr. Rodriguez moved that the Board exercise its discretion to grant licensure by endorsement to Dr. Zdenek. Mr. Heffner seconded the motion, and it passed unanimously.

17(b) Elouisa Farrales, M.D.

Elouisa Farrales, M.D. appeared before the Board on her application for licensure.

Ms. Daniels stated that Dr. Farrales was appearing before the Board because she did not pass the Flex exam and she had applied for a restricted license.

Dr. Held asked Dr. Farrales whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did not.

Dr. Anwar questioned Dr. Farrales concerning the fact that she did not pass the Flex exam with a minimum score of 75.

Dr. Farrales explained that she took the two parts at different times and the average of her combined score met the minimum score requirement, which most states accept.

Discussion ensued concerning whether Dr. Farrales was eligible for licensure.

Ms. Daniels stated that at the time Dr. Farrales applied, the Licensing staff was unaware that her score was below 75. If they had been, they would not have processed her application. After this fact was discovered, Dr. Farrales was given an opportunity to withdraw her application, but she declined.

Dr. McBride explained to Dr. Farrales that there was no way to grant her a license under the existing statutes and that it would be in her best interests to withdraw her application.

Dr. Farrales withdrew her application.

17(c) Tomasz Woloszyn, M.D.

Tomasz Woloszyn, M.D. appeared before the Board on his application for licensure.

Ms. Daniels stated that Dr. Woloszyn did not want his application to be considered in closed session, with the public being excluded, and explained that he was appearing before the Board because there were discrepancies in his application.

Dr. McBride questioned Dr. Woloszyn concerning the fact that he responded in the negative to Questions 13 and 19 on his application when he should have responded in the affirmative.

Dr. Woloszyn explained that he responded negatively to Question 13 because he was arrested on a citation, and the case was later dismissed, so he didn't think it was part of his record. He stated that he responded negatively to Question 19 because he was never notified that the University of Arkansas took any formal action against him.

Dr. McBride moved that the Board grant Dr. Woloszyn's application for licensure. Mr. Heffner seconded the motion, and it passed unanimously.

RECESS

Dr. Held recessed the meeting for lunch at 1:25 p.m.

RECONVENE

Dr. Held reconvened the meeting at 2:00 p.m.

Agenda Item 17 (*CONTINUED*)

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS  
FOR LICENSURE

17(d) William Doyle, C.R.T.

William Doyle, C.R.T. appeared before the Board on his application for licensure.

Ms. Daniels stated that Mr. Doyle was appearing before the Board because there were some issues with his application. She then asked Mr. Doyle whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Held moved to go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Ms. West moved to grant Mr. Doyle's application for licensure conditioned upon him receiving an evaluation by Montevista Hospital in Las Vegas and his participation in the treatment and monitoring program prescribed by Montevista Hospital. Dr. McBride seconded the motion, and it passed unanimously.

17(e) Howard Gelfand, M.D.

Howard Gelfand, M.D. appeared before the Board on his request that the conditions of his license be modified to allow him to practice in the specialty of wound care and hyperbaric medicine.

Dr. Held asked Dr. Gelfand whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Held questioned Dr. Gelfand concerning the fact that he hadn't practiced clinical medicine since June of 2005.

Dr. Gelfand described what he had been doing since June of 2005 and what he planned to do if the Board were to allow him to practice in the specialty of wound care and hyperbaric medicine.

Dr. Held moved that the Board grant Dr. Gelfand's request to expand his practice to the area of wound care and hyperbaric medicine. Dr. Rodriguez seconded the motion, and it passed unanimously.

17(f) Faraz M. Norozian, M.D.

Faraz M. Norozian, M.D. appeared before the Board on his application for licensure.

Ms. Daniels asked Dr. Norozian whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Held moved to go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. McBride moved that the Board grant Dr. Norozian's application for licensure. Mr. Heffner seconded the motion, and it passed unanimously.

17(g) Brian E. Mendenhall, C.R.T.

Brian E. Mendenhall, C.R.T. appeared before the Board on his application for licensure.

Dr. Held asked Mr. Mendenhall whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Ms. West questioned Mr. Mendenhall concerning his affirmative response to Question 12 on his application for licensure.

Mr. Mendenhall described the circumstances surrounding his arrests in 1992, 1994, 1998, 2002 and 2005, and described how he had changed his life since his last arrest.

Ms. West moved that the Board grant Mr. Mendenhall's application for licensure conditioned upon him receiving an evaluation by Montevista Hospital in Las Vegas and his participation in the treatment and monitoring program, as prescribed by Montevista Hospital, with documentation of the evaluation and treatment plan to be provided to the Board. Dr. McBride seconded the motion, and it passed unanimously.

**17(h) Dennis G. Campton, M.D.**

Dennis G. Campton, M.D. appeared before the Board on his application for a change in licensure status from inactive to active.

Ms. Daniels stated that Dr. Campton was appearing before the Board to request a change in licensure status from inactive to active. She asked Dr. Campton whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Anjum questioned Dr. Campton concerning the fact that he hadn't practiced clinical medicine since June of 2005.

Dr. Campton described what he had been doing since June of 2005.

Dr. Anjum moved that the Board grant Dr. Campton's application for a change in status from inactive to active. Dr. McBride seconded the motion, and it passed unanimously.

**17(i) Carolyn L. Cornelius, M.D.**

Carolyn L. Cornelius, M.D. appeared before the Board on her application for licensure.

Ms. Daniels stated Dr. Cornelius was appearing before the Board because she had not practiced clinical medicine in over 12 months. She asked Dr. Cornelius whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did not.

Ms. Stoess questioned Dr. Cornelius concerning the fact that she hadn't practiced clinical medicine since May of 2002.

Dr. Cornelius explained the medical problems that had prevented her from practicing medicine and the treatment she had received which will allow her to safely return to the practice of medicine. She described what she had been doing to keep current.

Discussion ensued concerning programs that Dr. Cornelius could attend to ensure she was competent to return to surgery.

Dr. Anjum moved that the Board grant Dr. Cornelius a license restricted to office-based OB/Gyn practice. Dr. Rodriguez seconded the motion, and it passed unanimously.



**17(j) M. Richard Auerbach, M.D.**

M. Richard Auerbach, M.D. appeared before the Board on his application for licensure by endorsement.

Ms. Daniels stated Dr. Auerbach was appearing before the Board due to his affirmative responses to Questions 12 and 31 on his application for licensure. She asked Dr. Auerbach whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Anjum questioned Dr. Auerbach concerning his affirmative responses to those questions and Dr. Auerbach explained the circumstances surrounding the malpractice case against him that resulted in a settlement of over one million dollars.

Dr. Anjum moved to grant Dr. Auerbach's application for licensure. Mr. Heffner seconded the motion, and it passed unanimously.

**17(k) Daisy Saw, M.D.**

Daisy Saw, M.D. did not appear before the Board on her application for licensure by endorsement. Ms. Daniels advised the Board that Dr. Saw had been noticed of the meeting and that she would be discussed at the meeting, but had chosen not to attend.

Dr. Held explained that Dr. Saw was foreign-trained, was board certified by the American Board of Pathology in cytopathology and another specialty, that she wanted to do locum tenens pathology work and that she was applying under the current endorsement statute.

Dr. Held moved that the Board exercise its discretion to grant licensure by endorsement to Dr. Saw. Mr. Heffner seconded the motion, and it passed unanimously.

**17(l) Kim Adamson, M.D.**

Kim Adamson, M.D. appeared before the Board on his application for a county-restricted license. Maria Nutile, Esq. was present in Las Vegas as Dr. Adamson's attorney.

Dr. Rodriguez asked Dr. Adamson what he planned to do if he was granted a license in Nevada.

Dr. Adamson stated he would like to go to work for the Indian Health Service at the Pyramid Lake Clinic in Nixon, Monday through Friday, regular clinic work, no hospital responsibilities. He would be directly supervised by Dr. Gray, the Chief Medical Officer, but Dr. Gray would not always be present while Dr. Adamson was working. Dr. Adamson would also be supervised by his preceptor through CPEP, Dr. Kirk Carlson. Dr. Carlson works in Lovelock and works periodically for the Indian Health Service.

Dr. Rodriguez asked Dr. Adamson about his evaluation by CPEP and about the program.

Dr. Adamson stated he had nothing to add to what was written in the final report from CPEP, and that he thought it was a good program overall.

Dr. Rodriguez stated that one of the recommendations from CPEP was that Dr. Adamson should initially practice in an environment where he would have immediate, on-site consultation, and that he needed 100% of his charts reviewed every day.

Dr. Adamson said the chart review was already set up.

Dr. Rodriguez asked whether there was a way for Dr. Adamson to have strictly on-site consultation for a period of time, and Dr. Adamson stated it had not been set up that way with Dr. Gray.

Ms. Nutile stated that she would recommend that in the beginning, Dr. Adamson agree to work only when Dr. Gray was present so that he would be in compliance with the CPEP recommendation.

Discussion ensued concerning the on-site supervision requirement and the requirement that a request for waiver of the three-year post-graduate training requirement be received from the counties in which Dr. Adamson would be working.

Dr. McBride moved that the Board grant Dr. Adamson a county-restricted license to work in an underserved area, contingent upon him following the recommendations of the CPEP evaluation and having full-time supervision at whatever facility he works for at least the next year, or until cleared by CPEP that they have had adequate documentation of his supervision, and contingent upon receipt of the appropriate documentation and waivers from whatever counties are necessary.

Ms. Nutile asked for clarification of Dr. McBride's condition that there be full-time supervision be for a year.

Dr. McBride withdrew the timeframe from his motion.

Discussion ensued concerning whether Dr. Adamson will need to return to the Board at some point.

Dr. Rodriguez moved that the Board grant Dr. Adamson a county-restricted license contingent upon compliance with the recommendations of CPEP and contingent upon his obtaining recognition that there is a need for him to practice in an underserved area. Dr. Held seconded the motion, and it passed unanimously.

#### 17(n) Samuel S. Johnson, M.D.

Samuel S. Johnson, M.D. appeared before the Board on his application for licensure. Tracy Singh, Esq. appeared with Dr. Johnson as his attorney.

Dr. Held asked Dr. Johnson whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Ms. Daniels stated that Dr. Johnson was appearing before the Board due to his affirmative responses to various questions on his application for licensure.

Dr. Anwar questioned Dr. Johnson concerning his affirmative responses, and Dr. Johnson explained the circumstances surrounding the Idaho Board of Medicine's action against him.

Ms. West asked Dr. Johnson when he last practiced medicine, and he told the Board he held a locum tenens assignment in Boise from August to November of this year, with the same company that runs the clinic in Elko that he would become the Director of if he received a Nevada medical license.

Dr. McBride moved that the Board grant Dr. Johnson's application for licensure. Ms. Stoess seconded the motion, and it passed unanimously.

#### 17(o) David L. Packer, M.D.

David L. Packer, M.D. appeared before the Board on his application for licensure.

Ms. Daniels stated Dr. Packer was appearing before the Board due to affirmative responses to some questions on his application. She asked Dr. Packer whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Rodriguez questioned Dr. Packer concerning his affirmative response to Question 12 on his application for licensure.

Dr. Packer explained the circumstances surrounding the claims of malpractice against him.

Dr. Rodriguez moved that the Board grant Dr. Packer's application for licensure. Mr. Heffner seconded the motion, and it passed unanimously.

#### Agenda Item 18

#### MATTERS FOR FUTURE AGENDA

Mr. Ling stated there were no matters to bring to the Board's attention at that time.

#### Agenda Item 19

#### PUBLIC COMMENT

Dr. Held asked whether there were any members of the public present who would like to make a public comment, and there were none.

#### ADJOURNMENT

Dr. Held moved to adjourn the meeting. Dr. Anwar seconded the motion, and it passed. Dr. Held adjourned the meeting at 5:18 p.m.

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